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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,414	04/22/2005	Harald Gaukel	10191/3791	1797
26646	7590	04/17/2008	EXAMINER	
KENYON & KENYON LLP			PHAN, HAU VAN	
ONE BROADWAY				
NEW YORK, NY 10004			ART UNIT	PAPER NUMBER
			3618	
			MAIL DATE	DELIVERY MODE
			04/17/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/532,414	GAUKEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hau V. Phan	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 March 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's amendment submission after final filed on 3/17/2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "the remote sensor is used to perform a plausibility check for the velocity of the vehicle" is would be better to have additional functional recitation to support the performance of the remote sensor.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oswald et al. (6,907,335) in view of Knopp et al. (2004/0030497).**

Oswald et al. in figures 1-2, disclose a method for classifying an obstacle means of pre-crash sensor signals in a vehicle comprising an arrangement for triggering or deployment of restraining means as function of a velocity of the vehicle. The arrangement has a sensor to determine the velocity of an obstacle. Oswald et al. fail to show a sensor that used to determine the velocity of the vehicle and to perform a plausibility check for the velocity of the vehicle.

Knop et al. in figure 1, teach a device for automatically triggering a vehicle having a remote sensor to determine a velocity of a vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Oswald et al. with the vehicle having a remote sensor as taught by Knop et al. in order to prevent an unjustified faulty triggering.

Regarding claim 10, Knop et al. disclose the sensor can be an acceleration sensor.

Regarding claim 11, Oswald et al. disclose means (3) for modifying at least one threshold to which at least one crash signal is compared for the triggering of the restraining device, as a function of the vehicle velocity.

Regarding claim 12, Oswald et al. disclose means (2) for subdividing the vehicle velocity into a predefined class as a function of a magnitude of the vehicle velocity and then for modifying the threshold as a function of the class.

Regarding claim 13, Oswald et al. disclose the at least one remote sensor that is an upfront sensor (1).

Regarding claim 14, Oswald et al. in combination with Knoop et al. disclose means (5) for comparing the signal of the upfront sensor to a plausibility threshold. The plausibility threshold positions below a trigger threshold for generating a crash signal of the upfront sensor. The vehicle velocity is being taken into consideration in the triggering of the restraining device as a function of the comparison.

Regarding claims 15-16, Oswald et al. disclose the vehicle velocity leading to a modification of the threshold in a frontal algorithm.

Regarding claim 17, Oswald et al. do not disclose a speedometer, but the entire vehicle should at least have one speedometer.

Regarding claim 18, Oswald et al. disclose the velocity base on wheel speed data.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hau V Phan/  
Primary Examiner, Art Unit 3618